

TATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Robert L. Stuyvesant,

Petitioners-Appellant,

v.

Warren County Board of Review,

Respondent-Appellee.

ORDER

**Docket No. 09-91-0115
Parcel No. 39-490-00-0160**

On April 27, 2010, the above captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Robert L. Stuyvesant is self-represented. Warren County Attorney Brian Tingle is the designated legal representative for the Warren County Board of Review; and Brian Arnold, County Assessor, represented it at hearing. The Appeal Board having reviewed the record, heard the testimony and being fully advised, finds:

Findings of Fact

Robert Stuyvesant is the owner of a residentially classified, single-family residence located at 810 Veterans Memorial Drive, Carlisle, Iowa. The property is a one-story home, built in 1997, and has 2156 square feet of total living area with a full, walkout basement. The basement has 1150 square feet of "living quarters" finish. Other features include a three-car attached garage, and several exterior amenities such as open porches, a covered patio, and deck.

Stuyvesant protested to the Warren County Board of Review regarding the 2009 assessment allocated as follows: \$42,800 in land value and \$276,000 in improvement value for a total assessment of \$318,800.

Stuyvesant's claim was based on a single ground: that the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b). The Board of Review left the 2009 value unchanged citing the value was "unchanged as the data proved equitability when complete information was examined."

Stuyvesant then appealed to this Board asserting the same ground.

The Board of Review denied the original petition, and made arguments to this Board based on the property's equitable assessment under Iowa Code section 441.37(1)(a). At the time of hearing, it appeared as if the only ground on appeal was whether the property was assessed for more than authorized by law. However, given the Board of Review's ruling, its evidence and testimony, both the grounds of equity and greater than market value will be considered by this Board

Stuyvesant asserts his property is assessed for more than market value. He claims the 2007 to 2009 increase of roughly 17% in assessed value is not reasonable given articles published in *The Des Moines Register* regarding the decline in median home values and only a 1% average increase in Polk County assessed values. One of the articles, dated April 10, 2009, (April article) references assessed values only in Polk County. We note Stuyvesant's property is located in Warren County, but given the proximity to Polk County it is reasonable his property would compete with similar residences in either assessment jurisdiction. Stuyvesant's other article is undated, and briefly discusses median home values in the Des Moines area as declining less than 1% in the first quarter of 2009, according to Zillow.com. Zillow.com also states in the article, the 1% decline in the first quarter of 2009 was on the heels of a 1.7% growth in Des Moines-area median home values during the past five years.

Stuyvesant asserts his property has a total market value of \$286,649. The 2009 assessed value of Stuyvesant's property is \$318,800, roughly 17% higher than the 2007-2008 assessed values. Stuyvesant indicated he used the April article, in part, to determine what he considered to be the correct amount of increase since the 2007-2008 assessment. The April article identifies twelve areas of

Polk County by city name and categorizes all of unincorporated Polk County as a thirteenth area. Of these thirteen areas, six saw increases in their assessed value of 0.2 to 1.8%. One area saw no change and the remaining six areas saw a decline in assessed value of 0.1 to 1.7%. However, he also testified that he used a percentage of increase which was greater than anything presented in the article, in an effort to demonstrate reasonableness. Stuyvesant asserts the 2007-2008 value of \$278,300 should not have increased by 17% to the current 2009 assessment, but rather he asserts the value should have increased no more than 3%. Stuyvesant applied a 3% increase to the 2007-2008 assessed value to arrive at a value of \$286,649. He believes this is the correct value of his property.

While Stuyvesant applied logic to his conclusions, and utilized some published data as support for a more limited increase from the 2007-2008 to 2009 assessment, it is not considered sufficient. The article and the percentages cited for increases and decreases are based upon a wide variety of styles, sizes, and quality of homes. The statistics provided, in fact reference the averages only for the entirety of Polk County. There is no indication what the statistics were for single-story homes of similar size, age, and quality to the subject.

Stuyvesant indicated he could not provide sales data, as there have been no recent sales in his development. He did indicate that several properties have been listed for sale, and that the developer continues to sell new homes, but information on these listings or the new home starts were not provided. We also note that Stuyvesant is not limited to his development for finding comparable sales. He may look at similar property sales in other locations.

Brian Arnold, the Warren County Assessor, testified for the Board of Review. Arnold indicated the large increase from the 2007 to 2009 assessment was due to switching cost manuals, as well as changing the quality grade of Stuyvesant's property to reflect accurate comparison of it to neighboring properties in the immediate development. The property's previous grade was 3-5 and was changed to a 3+10 grade. While Arnold indicated two issues resulted in the increase (switching

manuals and grade), he acknowledged the change in quality of grade caused the greatest impact to the property's value. The result was an increase of approximately 15% from the previous assessment to the January 1, 2009, assessment. Although Arnold was not the assessor, nor did he work for the assessor's office as of January 1, 2009, he testified the entire county was revalued in 2009.

The Board of Review did not submit new evidence. Arnold pointed to seven equity comparables in the certified record indicating an assessed value per square foot of \$122.98 to \$149.63, with a median of \$138.56. The subject's assessed value per square foot of \$128.01 is at the low end of this range and below the median. Arnold recognizes this is primarily an equity analysis, although it does not compare assessed values to sales prices or otherwise established market values. However, he does believe it adequately demonstrates the subject property is valued fairly in comparison to other like properties.

Regarding Stuyvesant's claim that the property is over-assessed, Arnold cited a sale in the subject property's development, located at 710 Veterans Memorial Drive, which sold in 2006 for \$161 per-square-foot. While this is an older sale, and the property is slightly larger than the subject property, Arnold indicated it was otherwise comparable. Given the sale date of 2006, we give this evidence limited consideration, but compared to the subject's current assessed value of \$128.01 per-square-foot it would appear to offer support the subject is not over-assessed.

Stuyvesant asserts his assessment is for more than market value based on two articles indicating only moderate increases in assessed values for a neighboring county, and moderate decreases of less than one percent for the Des Moines area median home values in the first quarter of 2009. He otherwise offered no evidence to support what he believes is the correct value of his property. We find that insufficient evidence has been provided to demonstrate the subject is assessed for more than authorized by law.

Conclusions of Law

The Appeal Board applied the following law.


The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

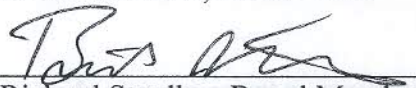
To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). Stuyvesant did not argue equity in either his initial protest or subsequent appeal to this Board. However, this ground is considered due to being the basis of the Board of Reviews denial and no additional evidence being submitted. The equity analysis presented is incomplete as it does not offer any sales data to demonstrate the properties are in fact equitable in terms of assessed value. However, the data does demonstrate that the subject, on an assessed value per-square-foot basis, is at the lower end of other similar properties in the area and assessment jurisdiction.

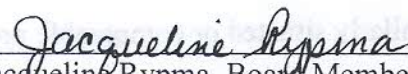
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Stuyvesant asserts the property is assessed for greater than authorized by law, but he fails to offer any persuasive evidence to support this claim or to demonstrate the correct value of the property.

THE APPEAL BOARD ORDERS the assessment of the Stuyvesant's property located at 810 Veterans Memorial Drive, Carlisle, Iowa, of \$318,800, as of January 1, 2009, set by the Warren County Board of Review, is affirmed.

Dated this 14 day of May, 2010


Karen Oberman, Board Chair


Richard Stradley, Board Member


Jacqueline Rypma, Board Member

Cc:

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>5-14</u> , 2010	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	